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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/737,536

12/13/2000

Daniel M. Bartell

3309

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06/14/2006

EXAMINER

AFFYMETRIX, INC

ATTN: CHIEF IP COUNSEL, LEGAL DEPT.

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SANTA CLARA, CA 95051

ART UNIT

PAPER NUMBER

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/737,536

Applicant(s)

BARTELL ET AL.

Examiner

Pablo Whaley

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 07 April 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

*Box 1 (above) has been checked because the appendix numbers are not in compliance. The brief shall contain items under appropriate headings and in the order indicated by paragraphs (c)(1)(i) through (c)(1)(x). Currently, the instant appeal brief section (I) is titled "Introduction" and section (X) is titled "Conclusion." Section (I) should recite "Real Party Interests" and section (X) should recite "Related proceedings appendix". It is noted that Section (x) "Related proceeding appendix" is currently missing. This appendix section must be present, and should indicate that there are no related appeals and interferences under the appendix heading. Furthermore, the "Status of Claims" in Section (iv) is incorrect as claims 32-52 have not been cancelled. Correction is required. Box 3 (above) has been checked because after-final arguments were filed, but there is no indication of this in the brief. The filed after-final arguments are considered an "after-final amendment" even if the claims were not amended. Correction is required.*

*Marjorie A. Moran*  
6/12/06

**MARJORIE A. MORAN  
PRIMARY EXAMINER**